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23 UNITED STATES DISTRICT COURT

24 NORTHERN DISTRICT OF CALIFORNIA

25 SAN FRANCISCO DIVISION

26 SONOS, INC.,

27 Plaintiff,

28 vs.

GOOGLE LLC,

Defendant.

Case No. 3:20-cv-06754-WHA

Related to Case No. 3:21-cv-07559-WHA

**GOOGLE'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS NOTICE OF
LODGING PRESENTATION SLIDES RE
THE MARCH 30, 2023 SUMMARY
JUDGMENT HEARING**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Notice Of Lodging Presentation Slides Re The March 30, 2023 Summary Judgment Hearing (“Notice”). Specifically, Google requests an order granting leave to file under seal the portions of the document listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Attachment A to Google’s Notice (“Attachment A”)	Portions outlined in yellow boxes	Google
Attachment A	Portions outlined in green boxes	Google and Sonos

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). In the Ninth Circuit, two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300 WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 2019) (quoting *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive

1 motion.” *Id.* Courts in this district apply a “compelling reasons” standard to a sealing request made
 2 in connection with a motion for summary judgment. *See, e.g., Edwards Lifesciences Corp. v. Meril*
 3 *Life Scis. Pvt. Ltd.*, No. 19-CV06593-HSG, 2021 WL 5233129, at *4 (N.D. Cal. Nov. 10, 2021);
 4 *Baird v. BlackRock Institutional Tr. Co., N.A.*, No. 17-CV-01892-HSG, 2021 WL 105619, at *5
 5 (N.D. Cal. Jan. 12, 2021).

6 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

7 Material that is confidential and could harm a litigant’s competitive standing if disclosed
 8 may be sealed under the compelling reasons standard. *Icon-IP Pty Ltd. v. Specialized Bicycle*
 9 *Components, Inc.*, No. 12-cv-03844-JST2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015)
 10 (information “is appropriately sealable under the ‘compelling reasons’ standard where that
 11 information could be used to the company’s competitive disadvantage”); *In re Qualcomm Litig.*,
 12 No. 3:17-CV-0108-GPC-MDD, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017) (concluding that
 13 “compelling reasons exist to seal . . . information subject to confidentiality and non-disclosure
 14 provisions” because “[s]uch insight could harm the parties in future negotiations with existing
 15 customers, third-parties, and other entities with whom they do business”).

16 The portions of Attachment A outlined in yellow boxes contain confidential business
 17 information and trade secrets that could significantly harm Google’s competitive standing if
 18 disclosed. Specifically, the portions of Google’s Attachment A outlined in yellow contain highly
 19 confidential information regarding Google’s products, including source code and details of the
 20 operation and system design of Google products and functionalities. Declaration of Anne-Raphaelle
 21 Aubry in Support of Google’s Administrative Motion (“Aubry Decl.”) ¶ 4. Public disclosure of
 22 these portions would harm the competitive standing Google has earned through years of innovation
 23 and careful deliberation by revealing sensitive aspects of Google’s proprietary systems, strategies,
 24 designs, and practices to Google’s competitors. Such disclosure would thus allow Google’s
 25 competitors to gain a competitive advantage in the marketplace. Google has therefore designated
 26 this information as HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY and/or HIGHLY
 27 CONFIDENTIAL—SOURCE CODE under the protective order. Dkts. 92, 94.

1 Additionally, the portions of Attachment A outlined in green boxes contain information
2 regarding confidential business agreements that are not public, as well as details regarding the future
3 business and commercial plans of partnerships. Public disclosure of this information would harm
4 Google’s competitive standing and its ability to negotiate future agreements by giving competitors
5 access to Google’s highly confidential business thinking and asymmetrical information about
6 Google’s collaboration strategies to other entities. If such information were made public, Google’s
7 competitive standing would be significantly harmed. Aubry Decl. ¶ 5. Google has therefore
8 designated this information as HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY under
9 the protective order (Dkt. No. 92). This Court has previously granted sealing of the same and/or
10 similar information. *See, e.g.*, Dkt. 334 at 3.

11 A less restrictive alternative than sealing the portions of Attachment A outlined in yellow
12 and green boxes would not be sufficient because the information sought to be sealed is Google’s
13 proprietary and confidential business information but is integral to Google’s Motion for Summary
14 Judgment, Google’s opposition to Sonos’s Motion for Summary Judgment, and its presentations
15 slides in support thereof. Aubry Decl. ¶¶ 4, 5. Thus, Google has compelling reasons to keep such
16 information under seal. *See Delphix Corp. v. Actifo, Inc.*, No. 13-cv-04613-BLF, 2014 WL
17 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding compelling reasons to seal where court filings
18 contained “highly sensitive information regarding [an entity’s confidential] product architecture and
19 development”); *Guzik Tech. Enterprises, Inc. v. W. Digital Corp.*, No. 5:11-CV-03786-PSG, 2013
20 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013) (sealing exhibit containing “significant references to
21 and discussion regarding the technical features” of a litigant’s products); *Exeltis USA Inc. v. First*
22 *Databank, Inc.*, No. 17-CV04810-HSG, 2020 WL 2838812, at *1 (N.D. Cal. June 1, 2020) (sealing
23 confidential business information in the form of agreements, confidential licensing negotiations, and
24 business strategies under the “compelling reasons” standard).

25 **IV. CONCLUSION**

26 For the foregoing reasons, Google respectfully requests that the Court grant Google’s
27 Administrative Motion to File Under Seal Portions of its Notice.
28

1 DATED: April 28, 2023

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

2
3 By: /s/ Sean Pak

Sean Pak

4 *Attorneys for GOOGLE LLC*

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on April 28, 2023, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: April 28, 2023

By: /s/ Sean Pak
Sean Pak